Supreme Court, U.S.
FILED

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No._____

IN THE
SUPREME COURT OF THE UNITED STATES

Marie K. Yanna - Trombley
Plaintiff, pro se,
Petitioner

v.

Saturn Corporation
(Subsidiary of General Motors Corp.)
Respondent

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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Reproduced by
Marie K. Yanna- Trombley

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IN THE UNITED STATED DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MARIE K.YANNA-TROMBLEY Plaintiff,	)	
v.	)	NO. 1:04-0026
	)	JUDGE HAYNES
SATURN CORPORATION, Defendant.	)	

ORDER

In accordance with the Memorandum filed herewith, the Defendants' motion for summary judgment (Docket Entry No. 48) is GRANTED. This action is DISMISSED with prejudice.

This is the Final Order in this action.

It is so ORDERED.

ENTERED this the 30th day of August, 2005.

" s/ William J. Haynes Jr."
William J. Haynes, JR
United States District Judge

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IN THE UNITED STATED DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MARIE K.YANNA-TROMBLEY Plaintiff,	)	
v.	)	NO. 1:04-0026
	)	JUDGE HAYNES
SATURN CORPORATION, Defendant.	)	

MEMORANDUM

Plaintiff, Marie K. Yanna-Trombley, filed this action against the Defendant Saturn Corporation asserting claims for violations of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. ("ADA"); the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq. ("ADEA"), and the Tennessee Human Rights Act, Tenn. Code Ann. § 4-21-

101 et seq. ("THRA") Specifically, Plaintiff alleges a hostile work environment because of her perceived disability and/or her age in violation of the ADA, the ADEA, and the THRA. Plaintiff also alleges that Saturn retaliated against Plaintiff after she complained about the alleged discrimination and hostile work environment in violation of the ADA, the ADEA, and the THRA. Finally, Plaintiff asserts that she was constructively discharged.

Before the Court is the Defendant's motion for summary judgment (Docket Entry No. 48), contending, in sum: (1) that Plaintiff does not have a "disability" nor did Saturn regard her as having any impairment as defined by the ADA; (2) that Plaintiff's proof fails to prove that Saturn took any adverse employment action against her because of her age or perceived disability; (3) that Plaintiff's was not subjected to any unwelcome conduct based upon her age or perceived disability; (4) that Saturn took prompt and appropriate corrective action upon

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Plaintiff's complaints about her co-workers; (5) that Plaintiff's retaliation claim fails because Saturn did not take

any adverse action against her that is causally connected to her complaints of alleged discrimination and harassment; and (6) that Saturn neither coerced nor encouraged Plaintiff to resign.

A. Findings of Fact [1]

Plaintiff worked as an Operations Technician at Saturn from 1991 until September 20, 2003. (Docket Entry No. 66, Trombley Deposition at pp. 20-22). Plaintiff was a member of Local 1853 of the International Union of the United Automobile, Aerospace, and Agricultural Implement Workers of America ("UAW"). Id. at 27. The terms and

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[1] Upon a motion for summary judgment, the factual contentions are viewed in the light most favorable to the party opposing the motion for summary judgment. Duchon v. Cajon Co., 792 F.2d 43, 46 (6th Cir. 1986) app. 840 F.2d 16 (6th Cir. 1988) (unpublished opinion). As will be discussed infra, upon the filing of a motion for summary judgment, the opposing party must come forth with sufficient evidence to withstand a motion for directed verdict, Anderson v. Liberty Lobby, 477 U.S. 242, 247-52 (1986), particularly where there has been an opportunity for discovery. Celotex Corp. Catrett, 477 U.S. 317 (1986). The Court concludes that there are not any material factual disputes. Thus, this section constitutes findings of fact under Fed. R. Civ. P. 56 (d).

conditions of Plaintiff's employment were governed by the Memorandum of Agreement and Guiding Principles, that is considered a collective bargaining agreement. Exhibit 7 thereto.

In May 2002, Plaintiff filed an action, Marie Yanna-Trombley v. Saturn Corp.. No. 1:02-0045, United Sates District Court, Middle District of Tennessee, Columbia Division, alleging that Saturn discriminated against her based upon a perceived mental impairment in violation of the ADA.. On October 30, 2002, Plaintiff signed a Settlement Agreement and General Release ("Settlement Agreement") that waived "all known and unknown claims, promises, causes of action, or similar rights of any type" that she could have brought in the

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lawsuit as of October 30, 2002 in exchange for reinstatement. Id. at p. 210 and Exhibit 7 thereto. The Settlement Agreement also stated, "In consideration for my agreement to the terms of this release,... I will be placed

either into a permanent opening on a team or into a temporary Common Module position until a permanent opening becomes vacant." Id. at Exhibit 7pp. 1-2. Pursuant to the Settlement Agreement, Plaintiff returned to work on December 2, 2002.

Under Saturn's policy and procedure, all employees who are newly hired, rehired, or reinstated at Saturn are required to sign an Employment Agreement. (Docket Entry No. 51, Attachment 3 thereto, Bradley Deposition at pp. 8-10). Plaintiff signed such an agreement. (Docket Entry no 66, Trombley Deposition at p. 94 and Exhibit 2 thereto).

In accordance with the Settlement Agreement, Plaintiff was placed in a temporary position until a permanent job position became available. Id. at p. 210. On March 1, 2003, Plaintiff applied for and, based upon her seniority, received a permanent position in the SUV 240 module without any change in pay or benefits. (Docket Entry No. 51, Attachment No. 6, Eppler Affidavit at ¶ 3 and Exhibit A thereto).

On January 27, 2003, Plaintiff complained to Lynne Anderson, Saturn's EEO Advisor, that Gary Goforth, a co-worker, had threatened her. Sharon Eppler, the people systems coordinator, investigated and learned that the offending conduct was that Goforth would wave at Plaintiff and Plaintiff considered that conduct "threatening and intimidating." (Docket Entry No. 66, Trombley Deposition at 79-80). After the investigation, Eppler told Plaintiff that she had spoken with Goforth and Plaintiff later transferred to a different area from Goforth's area. (Docket Entry No. 51, Attachment No.6 and Eppler Affidavit at ¶ 5, Exhibit B

thereto). Plaintiff later complained to Anderson and Eppler About Pam Czajka, a Co-worker.

Czajka told Plaintiff that she wanted to take Plaintiff "under her wing" and tried to help Plaintiff do her job. (Docket Entry No. 66, Trombley Deposition at 108). Saturn's staff ("Non-rep 01VIA"), met with Plaintiff and Czajka. Id.112. The staff members informed Plaintiff that Czajka' s behavior would not continue. Id. at 112. Czajka no longer attempted to help Plaintiff after that meeting. Id.

Plaintiff testified that another employee called her the "little Cockpit girl," and put retainer stock in her way and then said "don't' trip." Id. At the time Plaintiff worked on the cockpit line. Id. According to Eppler, Plaintiff did not report this incident to Saturn. (Docket Entry No. 51, Attachment No. 6 Eppler Affidavit at ¶ 4).

On June 26, 2003, Plaintiff complained to Anderson and Eppler that Carla Luster, a operations module advisor pushed her. Id. At Attachment No. 61, Eppler Affidavit at ¶ 6. Eppler investigated Plaintiff's complaints and interviewed team members who could have witnessed the

alleged conduct. Id. According to Eppler, in this small work area, Plaintiff, Luster and other team members would routinely bump into each other by accident. Eppler spoke with Plaintiff on July 21, 2003, about the results of her investigation and informed her that the matter was closed. Id. at ¶ 6.

On August 15, 2003, plaintiff filed an administrative charge with the Tennessee Human Rights Commission.

On September 18, 2003, a quality issue arose in Plaintiff's assigned area. Under its policies and procedures, Saturn implemented a "128 Job Aid" process to track quality issues. Id. Eppler Affidavit at ¶ 7, Exhibit C thereto. For this process, team members are required to complete a Job Aid Form with team member's name, the Vehicle Identification Number ("VIN")

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of the first vehicle that the team member worked on, and the VIN of the last vehicle in which the team member worked during the shift. Id at ¶ 8, Exhibit D. Plaintiff completed her form on September 18 and 19, 2003, Id. at Exhibit D, but on September 20, 2003, when Plaintiff refused to sign

the Job Aid Form, David Solima, Non-Rep OMA, reviewed the written policy on this process with Plaintiff and explained the need for her to sign the Form. Trombley Deposition at 142. Plaintiff continued to refuse to sign the Form. Id. 140. Plaintiff contends that Solima put the papers in her face and that the papers did not have to be signed by her.

Solima, Irwin and Luster, then met with Plaintiff about her refusal to sign, (Docket Entry No. 51, Attachment No. 6 Eppler Affidavit at ¶ 9), but Plaintiff refused to attend the meeting. Id. Plaintiff then ran to a telephone located on the production floor and make some telephone calls. Id. Solima and Theresa Plonkey, Area Module Advisor, advised Plaintiff that any telephone call should be made in the privacy of a conference room, not the production line. Id. at ¶ 12, Exhibit F at p. 2. Plaintiff ignored them and continued to make calls from the telephone on the production floor. Id. Solima then disconnected the telephone and Plaintiff struck his arm and began screaming. Id. at Exhibit F p.2. Plaintiff notes that Solima was red-faced and slammed the telephone receiver. Plaintiff began to run around the production floor and supervisors and members of Saturn security were called and advised Plaintiff to make her telephone calls in a conference room. Id. at p.3 Eppler followed Plaintiff and informed her to make her calls in private without disrupting the production line. Id. at ¶ 10. Plaintiff yelled, "No. No. No. No. No." and left the plant on September 20, 2003. Id. Plaintiff never returned to Saturn. Id. at ¶ 17.

Saturn scheduled a meeting with Plaintiff on

September 23, 2003, at 4:00 p.m. at Saturn's Visitor Center. Id. at ¶ 14. Terry Wonderlin, a team leader, called Plaintiff on September 23,

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2003, to remind Plaintiff of the meeting. (Docket Entry No. 66, Trombley Deposition at 168. Plaintiff's husband received Wonderlin' s message on September 23, 2003. Id. Plaintiff did not attend the meting, nor did she call to inform anyone at Saturn about her failure to attend the meeting, Id. at 176. About three hours later, Plaintiff and her husband arrived at Saturn's gates, but without their badges, they could not enter Saturn's property. Id. Plaintiff did not request to see Wonderlin, nor mention the meeting. Id. at 176. When Eppler learned that Plaintiff was at the gates, she met her, but Plaintiff left before arrangements could be made. (Docket Entry No. 51, Attachment No.6 Eppler Affidavit at ¶ 15). Plaintiff contends that Saturn security vehicles surrounded her and detained her for thirty minutes.

On September 23, 2003, Saturn sent Plaintiff a letter

setting a second meeting for 4:00 p.m. on September 26, 2003, at Saturn's Visitor Center to discuss the events of September 20, 2003. Id. at ¶ 6. This letter notified Plaintiff that Saturn would consider her employment terminated if she failed to attend this meeting. (Docket Entry No. 66, Trombley Deposition at Exhibit 4). Plaintiff received this letter on September 26, 2003, but she did not attend the meeting, nor contact Saturn about her inability to meet. Trombley Deposition at 183, 187. On September 29. 2003, Saturn sent Plaintiff a letter notifying her that it considered her to have voluntary quit effective September 20, 2003. Id. at Exhibit 6.

B. CONCLUSIONS OF LAW

To prove her ADA claim, Plaintiff must prove a disability under the Act. Bragdon v. Abbott, 524 U.S. 624, 630 (1998); Penny v. United Parcel Service, Inc., 128 F.3d 408, 414 (6th Cir. 1997). To prove a disability, Plaintiff must establish:

> (A) a physical or mental impairment that substantially limits one or more of [his] major life activities...,

(B) a record of such impairment; or
(C) being regarded as having such an impairment.

42 U.S.C. § 12102. "[A] defendant bears no burden of production or proof if the plaintiff cannot establish that he or she is disabled." Monette v. Electronic Data Sys., 90 F. 3d 1173, 1182 (6th Cir. 1996).

Plaintiff admits that she is not actually disabled. (Docket Entry No. 66, Trombley Deposition at 75), but asserts that Saturn regarded her as having mental deficiencies and having a record of a disability. Id. at 73.

For a "regarded as" claim under the ADA, Plaintiff must prove that Saturn mistakenly believed that she had an "impairment that substantially limits one or more major life activities," or that Saturn mistakenly believed that Plaintiff had an "actual, non limiting impairment substantially [that] limits one or more major life activities." Sutton v. United Air Lines. Inc., 527 U.S. 471, 489 (1999). " In both cases, it is necessary that a covered entity entertain misperceptions about the individual - it must believe either that one has a substantially limiting impairment that one does not have or that one has a substantially limiting impairment when, in fact, the impairment is not so limiting." Id.

Plaintiff cites co-worker' expressed concerns about her mental state after the September 20th incident on the production floor. Plaintiff admits that she did not know

about these workers statements until he received her file from the Equal Employment Opportunity Commission ("EEOC"). (Docket Entry No. 66, Trombley Deposition at 118, 120-21. These statements do not prove liability as to Saturn. See Smith v. Leggett Wire Co., 220 F.3d 752, 762 (6th Cir. 2000) (unlawful animus by low-level employees cannot be attributed to the employer).

Plaintiff must also present evidence that Saturn misperceived her as being unable to work

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in a broad class of jobs. See Sutton, 527 U.S. at 491-92; Murphy v. United Parcel Serv., 527 U.S. 516, 523 (1999) ("To be regarded as substantially limited in the major life activity of working, one must be regarded as precluded from more than a particular job."). Accord Moorer v. Baptist Mem'l Health Care Svs., 2005 U.S. App. LEXIS 2227, * 11 (6th Cir. Feb. 11, 2005), (an ADA Plaintiff must show Defendant considered Plaintiff as "unable to perform the same general type of work in the same geographic area.")

As applied here, Saturn assigned Plaintiff to a Operations Technician position and treated Plaintiff as it did other Saturn team members. Saturn required Plaintiff to sign an Employment Agreement, but required all rehired or reinstated team members, to do so. From her proof, Plaintiff is not substantially limited in any major life activity. Plaintiff's proof fails on her ADA claim.

As to Plaintiff's ADA claim for Saturn maintaining a "record of" her disability, Saturn has a medical record that indicates that Plaintiff has a mental impairment. To assert "record of" a substantially limiting impairment, however, "[t]he impairment indicated in the record must be an impairment that substantially limits one or more of the individual's major life activities." 29 C.F.R. §1630.2(k); see Edwards v. Ford Motor Co., 218 F. Supp, 2d 846, 851 (W. D. Ky. 2002) (a "record of" impairment claim requires showing that the plaintiff actually suffered an impairment that substantially limits one or more major life activities).

In her prior legal action, Plaintiff released all claims related to her pre- December 2002 employment. (Docket Entry No.66, Trombley Deposition at 210, Exhibit 7). Since Plaintiff's reinstatement on December 2, 2002, Saturn has not received or created any medical records related to Plaintiff. See Docket Entry No. 51, Attachment No. 5, Saturn's Response to Plaintiffs First Request for Production No. 1. Plaintiff has failed to prove that any such record is in

Saturn's possession. In any event, the possession of records alone fails to establish a claim under the ADA. Taylor v. United States Postal Service, 946 F. 2d 1214, 1217 (6th Cir 1991) (an employer's possession of an employee's medical record does not establish a "record of disability). Accordingly, as a matter of law, Plaintiff's "record of disability" claim under the ADA fails.

To prove her age discrimination claim, Plaintiff must present direct or circumstantial evidence of discriminatory treatment." Johnson v. Kroger Co., 319 F. 3d 858, 864-65 (6th Cir. 2003). Plaintiff's lack of direct evidence of discrimination requires her claim to met the standards in MacDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973). Thus, Plaintiff must show that: (1) she is a member of a protected group; (2) she was subject to an adverse employment action; (3) she was qualified for the position from which he was fired; and (4) she was replaced by someone outside the protected class, or she was treated differently that employees outside the protected class for the same or similar conduct. Id See also Talley v. Bravo Pitino Rest., LTD, 61 F. 3d 1241, 248 (6th Cir. 1995)).

Here, Plaintiff has not proved an adverse employment action and that she was subject to different treatment. An adverse employment action is a "materially adverse change in the terms or conditions of … employment

because of the employer's conduct." Mitchell v. Vanderbilt Univ., 389 F. 3d 177, 182 (6th Cir. 2004) (quoting Kocsis v. Multi-Care Mgmt., 97 F. 3d 876, 885 (6th Cir. 1996)). This change in employment conditions "must be more disruptive than a mere inconvenience or an alteration of job responsibilities." Id. Plaintiff fails to identify any adverse employment action based upon her age. Plaintiff signed an Employment Agreement,

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which did not affect her pay or status. Plaintiff's ADEA and THRA[2] claim fails as a matter of law.

To sustain a hostile work environment claim, Plaintiff must establish: (1) that she is a member of a

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[2] Plaintiffs age discrimination claim under the THRA is analyzed the same way as claims under the ADEA. See Watson v. Food Lion, Inc., 147 F. Supp. 2d 883, 884 (E.D. Tenn. 2000).

protected class; (2) that she was subjected to unwelcome harassment; (3) that the harassment was based on her age or perceived disability; (4) that the harassment had the effect of unreasonably interfering with her work performance by creating an intimidating, hostile, or offensive work environment; and (5) the existence of employer liability. See Newman v. Federal Express Corp., 266 F. 3d 401, 405 (6th Cir 2001)[3] The Court must consider the "totality of the circumstances," including: "the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance." Harris v. Forklift Sys., Inc., 510 U.S. 17, 21 (1993). For any alleged "harassment" to be actionable, Plaintiff's work environment must have been so "permeated with discriminatory intimidation, ridicule, and insult that it was sufficiently severe or pervasive to alter the conditions of [her] employment." Harris, 510 U.S. at 21. Subject perceptions, vague allegations, or conclusory assertions are not probative. See Bowman v. Shawnee State Univ., 220 F. 3d 456, 464 (6th Cir 2000).

Plaintiff cites co-workers' treatment that Plaintiff

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[3] The standard for Plaintiff's hostile work environment claim under the ADA is the same as that used for hostile work environment claims under Title VII. See Coulson v. Goodyear Tire & Rubber Co., No. 00-3818, 2002 U.S. App. LEXIS 4623, *19 (6th Cir. March 14, 2002).

was lazy and that they felt sorry for her. Courts have held that such conduct is insufficient to establish a hostile work environment.

See Faragher v. City of Boca Raton, 524 U.S. 775, 788 (1998). Plaintiff does not establish that the alleged name-calling interfered with her work performance and therefore she fails to meet the fourth element of the required prima facie case. In any event , this alleged name-calling was not based on Plaintiff's age or perceived disability. Plaintiff's proof also fails to demonstrate a severity or pervasiveness necessary to prove a hostile work environment claim.

Moreover, to hold Saturn liable on these claims, Plaintiff must also prove that the employer knew or should have known of the harassment and failed to take prompt and appropriate corrective action. See EEOC v. Harbert-Yeargin, Inc., 266 F. 3d 498, 518 (6th Cir. 2001). Here, Saturn investigated promptly all of Plaintiffs complaints and took appropriate corrective action, removing the named co-worker form her area or stopping a repetition of the cited co-worker's statements or conduct.

To establish her retaliation claim, Plaintiff must show that (1) that she engaged in a protected activity; (2) that Saturn knew that she engaged in this protected activity; (3) that she suffered an adverse employment action; and (4) that a causal connection exists between the protected activity and the adverse employment action. See Abbott v. Crown Motor Co., 348 F.3d 537, 542 (6th Cir. 2003). For a constructive discharge claim, Plaintiff must show that (1) Saturn deliberately created intolerable working conditions, as perceived by a reasonable person, and (2) Saturn did so with the intention of forcing Plaintiff to quit. See Logan v. Denny's, Inc., 259 F.3d 588, 568-69 (6th Cir. 2001).

From her proof, Plaintiff did not suffer an adverse employment action after she complained about other employees. To the extent that Plaintiff asserts that her "termination" was an adverse employment action, Plaintiff has not proved any causal connection. Plaintiff voluntarily resigned while Saturn sought to discuss her continued work at Saturn. For the

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reasons stated on Plaintiff's other claims, Plaintiff's proof

could not support a judgment on this claim.

In sum, the Court's review of the proof does not support Plaintiff's claim. Thus, the Defendant's motion for summary Judgment should be granted.

An appropriate Order is filed herewith.

ENTERED this the 30th day of August, 2005.

" s/ William J. Haynes Jr."
William J. Haynes, JR
United States District Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MARIE K. YANNA-TROMBLEY	]	
V.	]	
SATURN CORPORATION	]	No. 1-04-0026
	]	Judge Higgins

ORDER

All discovery related motions shall be filed by the close of business on December 17, 2004.

Any further motions to amend the pleadings shall be filed by the close of business on January 14, 2005.

All dispositive motions shall be filed by the close of business on January 28, 2005.

No memorandum in support of or in opposition to any motion shall exceed twenty (20) pages. No reply shall be filed to any response unless invited by the Court.

Strict compliance is required to Rule 8 (b) (7) Local Rules of Court relating to motions for summary judgment.

It is so ORDERED.

" s/ Thomas A . Higgins "
Thomas A. Higgins
United States District Judge
11-24-04/

This document was entered on the docket in compliance with Rule 58 and/ or Rule 79 (a). FRCP, on 11/29/04 By " s/ km " (32)

case 1: 04-cv-00026 Document 73-1 Filed 07/15/2005
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U.S. DISTRICT COURT
MIDDLE DISTRICT OF TN
" s/ km "

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MARIE K.YANNA-TROMBLEY	)
Plaintiff, pro se	) NO. 1-04-0026
	) Judge Thomas A.
v.	) Higgins
	) Magistrate
SATURN CORPORATION,	) Judge Knowles
(Subsidiary of General Motors Corp.)	) Jury Demand
Defendant	)

ORDER
This motion
is GRANTED
Fed. R. Civ. P. 15 (a)
" s/ William J. Haynes Jr."
7-14 -05

PLAINTIFF'S MOTION TO AMEND COMPLAINT

Comes now Plaintiff, Marie K. Yanna- Trombley, Pro Se and respectfully moves this court to allow Plaintiff

to make this second amendment to her original complaint so to state with particularity that :
(A) Amend to Paragraph 11: Defendant Saturn Corporation's Equal Employment Opportunity Advisor Lynn Anderson and Saturn financial Vickie Bradley, knowingly misrepresented the truth to the Plaintiff particularity on December 02, 2002. Plaintiff also felt the employment agreement was for temporary workers not represented by UAW. Plaintiff was told she had to sign the Employment Agreement in order for Plaintiff to return to work. Plaintiff was told she had to sign the Employment Agreement in order for Plaintiff to return to work. On about October 20, 2004 Plaintiff discovered that she was not reinstated as according to the settlement agreement.

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U.S. DISTRICT COURT
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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION

MARIE K.YANNA-TROMBLEY Plaintiff, pro se	)
	) NO. 1-04-0026
v.	) Judge Thomas A
	) Higgins
SATURN CORPORATION,	) Magistrate Judge
(Subsidiary of General Motors Corp.)	) Knowles
Defendant	) Jury Demand

PLAINTIFF'S SECOND AMENDED COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

The Plaintiff, Marie K. Yanna- Trombley , pro se brings this complaint against the defendant, Saturn Corporation a subsidiary of General Motors Corporation, (hereinafter called "Saturn ") , as follows:

Jurisdiction and Venue

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on the court by 42 U.S.C. , sections 2000e-5 et seq. and section 102 of the Civil Rights Act of 1991, 42 U.S.C., section 2000e-5(f)(3), the Age Discrimination in Employment Act of 1967 ("ADEA"), 29 U.S.C. section 621, et seq., 42 U.S.C., section 2000e 5(f)(3), the Civil

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Rights Act of 1991), 42 U.S.C., section 1981a, the Americans with Disabilities Act of 1990, (ADA"), 42 U.S.C. sections 12101 et. seq., which incorporates by reference the Civil Rights Act of 1964 42 U.S.C. section 1981a and the Tennessee Human Rights Act ("THRA"), Tenn. Code Annotated, Sections 4-21-102 et seq. Plaintiff for damages seeks equitable relief, back pay, compensatory damages, cost, interest and attorneys fees for age and disability discrimination as having been regarded as or having a record of a mental disability, hostile work environment, retaliation, and constructive discharge. Equitable and other relief are also sought under 42 U.S.C. section 2000e-5(g).

2. This action presents a Federal question (s) , jurisdiction in this court is invoked pursuant to 42 U.S.C. section 2000e-5, Section 1331 of Title 28, for claims arising under 29 U.S.C. 621 et seq. , 42 U.S.C. section 12101 et seq., 42 U.S.C. section 2000e-5(f)(3), 42 U.S.C. , 42 U.S.C., section 2000e-(g). Jurisdiction of this Court over the state claims set forth in this complaint is invoked pursuant to Tennessee Code Annotated, Section 4-21-101, et seq., in this Court's supplemental jurisdiction as provided in 28 U.S.C. , Section 1367. The amount in controversy exceeds $75,000.00, exclusive of interest and costs.

3. Venue for this action properly lies in this Court because all the acts complained of herein arise in this judicial district. And in particular Defendant Saturn Corporation is a subsidiary of General Motors Corporation and can be found and transacts business in this judicial district at 100 Saturn Parkway P.O. Box 1500, Spring Hill, Maury County Tennessee 37174. After the filing of the original complaint, the place of business has been renamed from "Saturn" to "G.M. Spring Hill Manufacturing". Venue is therefore proper in this Court.

4. On August 15, 2003, within three hundred (300) days of the last act complained of, Plaintiff filed charges with the Tennessee Human Rights Commission ("THRC"). Those charges included age and sex discrimination, disability discrimination as being regarded as having a disability, intimidation, coercion and harassment, retaliation/reprisal and continuing violation. Plaintiff received a notice of right to sue, executed by the EEOC area director, dated January 20, 2004; attached as Exhibit 1 and including attached copy of the charges filed with the Tennessee Human Rights commission or the Equal Employment Opportunity Commission, which charges are submitted as a brief statement of the facts supporting this complaint.

5. On October 29, 2003 , within three hundred (300) days of filing her intial complaint, Plaintiff filed a second charge with the THRC, wherein she alleged age discrimination, disability discrimination, being regarded as or having a record of having a mental disability, retaliation/reprisal, hostile work environment, harassment, constructive discharge and continuing action. Plaintiff received a second notice of right to sue, executed by the EEOC Area Director dated February 27, 2004; attached as Exhibit 2. and including attached copy of the charges filed with the Tennessee Human Rights commission or the Equal Employment Opportunity Commission, which charges are submitted as a brief statement of the facts supporting this complaint.

6. Plaintiff has filed suit within ninety (90) days of receipt of her Notices of Right to Sue.

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7. Plaintiff Marie K. Yanna- Trombley is a 48 year old female citizen of the United States and resides a 1090 Spring Place Road. Lewisburg, Marshall County, Tennessee 37091; Phone number (931)- 270 9688 and who has been employed by General Motors since 1977, and transferred to Saturn in 1991, and in particular now equaling a combined service of over 25 years.

8. In particular, Defendant Saturn Corporation is a subsidiary of General Motors Corporation with principal offices located at 300 Renaissance Center P.O. Box 300 Detroit, Michigan 48265-3000; mail code 482-C39-850.

9. Defendant is a " employer" as defined in 42 U.S.C., Section 2000(e) et seq. and Tennessee Code Anno., Section 4-21-102, in that the defendant employed , in particular more than five thousand (5,000) persons within the State of Tennessee at all times relevant to Plaintiff's claims .

10. Plaintiff was employed in the position of Operating Technician at Saturn, she had previously filed a Federal Discrimination Complaint against Saturn which was settled in October, 2002. Plaintiff returned to work at Saturn on December 2, 2002.

11. Saturn's retaliation against Plaintiff began almost immediately after she returned to work and continued thereafter on an ongoing basis creating a hostile work environment for her. In particular on Plaintiff's first day back to work management EEO Lynne Anderson caused Plaintiff to report to Vicky Bradley of Saturn's Financial at Bank of America to up date papers for Plaintiffs Benefits. There and with out union representation, Vicky Bradley and EEO Lynne Anderson, who was on the speaker phone

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, coerced Plaintiff to sign a employment agreement trying to undermined and redefined the terms of Plaintiff's legitimate expectations of being reinstated as according to the Federal Settlement Agreement. ..... Plaintiff was told she had to sign the Employment Agreement in order for Plaintiff to return to work....

13. Defendant's management , supervisors and Plaintiff's co-workers began a course of retaliatory discriminatory conduct shortly after Plaintiff's return to work in December, 2002, including but not limited to humiliating and ridiculing her, threatening, badgering and belittling her, unduly criticizing her, making false statements about her, and assaulting her.....

..... Defendant Saturn Corporation's later alleged PS team leader Terry Wonderlin and Saturn Corporation's PSC Sharon Eppler concealed material facts and made false statements concerning the Plaintiff on about August 06, 2003 when Saturn skipped over the Bargaining Agreement steps and tried to place Plaintiff in a red zone step, setting her up for discharge, publishing false information and accusations in the red zone contract, and disciplining plaintiff because she opposed discrimination by making complaints.

14. Such conduct interfered with Plaintiff's work and created a hostile and intolerable work environment....

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15. After Plaintiff notified Saturn's EEO, Management and the Union on about June 15, 2003, that she would file THRC and EEOC complaints, Defendant's retaliatory conduct escalated; even more so after Plaintiff filed the THRC complaint on August 15, 2003.

16. Defendant intentionally set Plaintiff up to insure that Plaintiff's employment would be terminated.

17. Particularly on September 20, 2003, Dave Salima, a large, six-foot, three inch Saturn supervisor interrupted Plaintiff's work and threatened and frightened Plaintiff trying to cause her to sign her legal name on a form. Plaintiff tried to continue to work but was stopped. While Plaintiff was on the factory floor column phone, to get help, Dave Salima hung the phone up. Plaintiff tried to redial but Dave Solima hit her hand away. Plaintiff then informed Dave Solima that she needed to call the police and Plaintiff attempted to redial the telephone to get help. Dave Salima continued to hit and slap her hands away from the phone, physically assaulting her..... The plaintiff left the premises and went to the Sheriff's Department to file Assault charges against Dave Solima..... In retaliation, Saturn/General Motors, withdrew plaintiffs complete pay deposit being $ 1,451. 86 from her bank account and has not paid or returned the plaintiff's wages she earned for hours of work she did for defendant. .....

18. ....In particular Plaintiff returned on September 23, 2003 to work after authorized E- Vac. The guard at the Saturn entrance guard shack told Plaintiff that she was restricted from the Saturn property then Security Mark Murphy asked for Plaintiff's badge..... Plaintiff did not receive the September 23, 2003 letter until after 4:17 p.m. on September 26, 2003. Plaintiff, of course, could not attend the meeting because the notice was sent too late.

19. Defendant Saturn carried out its threat and terminated Plaintiff.....

.....And Particularity Sharon Eppler concealed the fact that the plaintiff was allowed to E-Vac and could leave the plant without prior approval up to three different occasions as according to the 2000 Saturn UAW Collective Bargaining Agreement/ Guiding principles.....Defendant Saturn Corporation's EEO Advisor misrepresented the truth and even published false information

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concerning the Plaintiff on different occasions and particularity in around August, November, December 2003 by sending to the Tennessee Human Rights Commission/ Equal Employment Opportunity Commission false allegations, documents containing false records and back dated documents.....

20. Plaintiff avers that the illegal conduct set forth in paragraphs eleven (11), ... Seventeen (17),.....and nineteen (19) was carried out as a result of her prior reports of discriminatory conduct at Saturn, her filing of the Title VII lawsuit against Saturn which

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was settled in 2002,.....and the August 15, 2003 report to the THRC of discriminatory conduct at Saturn.

22. At all times relevant to this complaint, Defendant's employees were acting within the scope of their employment and as agents of the Defendant, pursuant to the doctrine of respondeat superior. Some of these employees, as supervisors and managers, affected decisions to hire, fire, discipline and/ or promote Plaintiff.

26. Defendant has engaged in a pattern of discriminatory conduct and

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continually violated Title VII. Defendant is liable under the continuing violation doctrine.

27. As a direct or proximate result of the conduct and actions of Defendant, Plaintiff suffered humiliation, embarrassment, duress and involuntary termination of her job or a constructive discharge.

28. As a direct and proximate result of the conduct and actions of Defendant, Plaintiff has suffered a loss of wages and other benefits, both past and future, for which she is entitled to be awarded damages against the defendant.

29. Injunctive relief should issue ordering Defendant to reinstate Plaintiff in the position of Operating Technician at the level of seniority, credited service and pay Plaintiff would have attained had her employment not been interrupted.

30. Plaintiff is entitled to be awarded her reasonable attorneys fees and costs of this cause.

WHEREFORE, PLAINTIFF PRAYS;

1... That injunctive relief be granted, ...

2. That this Court award Plaintiff compensatory and punitive damages.....including back wages,....

3. That this Court award Plaintiff her reasonable attorneys fees,...and costs of this cause.

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4. That this matter be tried before a jury.....

5. That this Court award Plaintiff such other relief as may be just and proper.

Respectfully submitted,

" s/ Marie K. Yanna- Trombley "
Marie K. Yanna- Trombley , Pro se
Ph. 931 270-9688 1090 Spring Place Road ,
Lewisburg , Tennessee , 37091

CERTIFICATE OF SERVICE

I hereby certify.....

Clerical err by District Court in Caption

Pages 27a and 28a : the word " STATES" in the caption is incorrectly typed by the court.

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Page 1 of 1

IN THE UNITED STATED [sic] DISTRICT
COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE COLUMBIA DIVISION

* * * * * * * * * * * * *

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IN THE UNITED STATED[sic] DISTRICT
COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE COLUMBIA DIVISION

District Court Refers to Eppler's un sworn Declaration As Being An Affidavit

Page 32a. ....(Docket Entry No. 51, Attachment No. 6, Eppler Affidavit at ¶ 3 and Exhibit A thereto).
....(Docket Entry No. 51, Attachment No.6 and Eppler Affidavit at ¶ 5, Exhibit B

Page 33a. ....(Docket Entry No. 51, Attachment No. 6 Eppler Affidavit at ¶ 4).

Page 34a. ....Carla Luster, a operations module advisor pushed her. Id. At Attachment No. 61, Eppler Affidavit at ¶ 6.
.... Id. Eppler Affidavit at ¶ 7, Exhibit C thereto.

Page 35a. .... (Docket Entry No. 51, Attachment No. 6 Eppler Affidavit at ¶ 9), but ....

Page 36a. .... (Docket Entry No. 51, Attachment No.6 Eppler Affidavit at ¶ 15).

02/14/2005	51	APPENDIX 1-12 filed by deft re [48- 1] (km) (Entered: 02/14/2005)
02/16/2005	52	NOTICE by deft Saturn Corporation of filing original declaration of Sharon Eppler (km) (Entered: 02/16/2005

* * * * * *

02/16/2005	53	DECLARATION of Sharon Eppler to replace the facsimile copy filed with the Appendix (Docket Entry No. 51) to motion for summary judgment [48- 1] (km) (Entered: 02/16/2005)

This Supplemental Appendix to Petition for Writ of Certiorari;

respectfully submitted, March 26, 2007,

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Ph. 931 270- 9688
1090 Spring Place Road
Lewisburg, Tennessee, 37091